

**IDAHO DEPARTMENT OF PARKS AND RECREATION
POLICIES AND PROCEDURES**

Number	Effective	Title	Owner
II-5	07/2011	Seasonal Employee/Volunteer Criminal History Check	Human Resource Officer

Approval: _____

SUBJECT: Criminal History Checks

PURPOSE: Criminal history checks provide reasonable assurance that seasonal employees and volunteers have not engaged in behaviors that are incompatible with the responsibilities of the position and Idaho Department of Parks and Recreation’s (IDPR) mission, or that may pose a danger to themselves or others.

POLICY: IDPR shall undertake to provide a safe place for its employees, volunteers and visitors by ensuring that seasonal employees and volunteers not only meet the requirements of the position, but also have no adverse criminal history that would compromise the integrity of IDPR or the safety and security of other employees, volunteers, or visitors.

IDPR shall conduct a criminal history record check on seasonal employees and volunteers registered with the Volunteer Services office upon initial service, biannually, and that have had a break in service. Background checks **will not be conducted** on incidental special event volunteers such as scouts or large numbers of one-time project volunteers.

DEFINITIONS:

- **“Actively Supervised”** means that a supervisor, including a manager or staff person designated by the manager, must be in close proximity to the subject individual throughout the workday and must be in a position to observe and direct the activities of the subject individual at times during the work day.
- **“Authorized Staff”** means an IDPR employee who has been certified to access and review criminal offender information.
- **“Break In Service”** means returning seasonal employees and volunteers will have a criminal history check every two years if serving sequentially in those two years. Volunteers and seasonal employees who have a break in service of a year or more will be required to have a criminal history check annually.
- **“Criminal History Records Check”** means a review conducted by authorized staff of a subject individual’s criminal offender information from inside and outside Idaho’s borders obtained from **LexisNexis Volunteer Screening**. IDPR may gather information from motor vehicle records, and receive any criminal history record information pertaining to subject individual that may be in the files of any federal, state, county, or local criminal justice agency and/or other information as deemed necessary to fulfill the job requirements.
- **“Employment”** means work under the direction and control of IDPR whether paid or unpaid. Volunteer hosts are included in this definition for the purposes of this Management Procedure only.

- **“Seasonal Employee”** means a person who is limited to one thousand three hundred eighty-five (1,385) hours of work in any twelve (12) month period for any one (1) agency.
- **“Subject Individual”** means a person who is required to complete a criminal record check such as:
 - ❖ A person who has applied for or been offered employment by IDPR;
 - ❖ A person who is a returning seasonal;
 - ❖ A volunteer over whom IDPR has direction and control, who is registered with the Volunteer Services Program and volunteers on a recurring basis;
 - ❖ A subject individual **does not** include incidental special event volunteers such as scouts or one-time project volunteers.
- **“Volunteer”** means any person who contributes his services in a program or service conducted or sponsored by any agency, department or unit of state government for which he receives no financial remuneration, except for reasonable and necessary expenses actually incurred in the course of his participation in the program. Additionally, IDPR defines a volunteer as anyone who performs work for IDPR under a current, signed volunteer agreement.

GUIDELINES:

1. **Agreement For Service**—An agreement is entered into between LexisNexis
 - a. In providing Background Reports, LexisNexis agrees to do the following:
 - ❖ Disclose, upon request from the subject individual, the information reported, reinvestigate any information disputed by the subject individual at no charge to IDPR and take any necessary corrective action with the subject individual and IDPR.
 - ❖ Defend and indemnify IDPR from and against liability, losses, costs, expenses and damages for claims or litigations brought by third parties, caused by, or arising from, any violation of law or the negligent acts or omissions of LexisNexis.
 - b. IDPR agrees to do the following:
 - ❖ Keep all Background Reports, whether oral or written confidential and restrict the use of the information in the Background Reports by IDPR and its authorized personnel to seasonal employee and volunteer selection purposes.
 - ❖ No information from Background Reports will be given or resold to any other “person” or “user”.
 - ❖ If the subject individual requests Background Report information, that person may be referred to LexisNexis for disclosure.
2. **Criminal History Records Check**—A criminal history check shall be completed on subject individuals for the purposes of making employment decisions only. Costs will be paid by IDPR.
 - a. **Secure Access to Information**—Authorized staff in Personnel and/or Volunteer Services shall conduct the checks and evaluate the results for the purposes of determining fitness for the position.
 - b. **Pass/Fail**—A pass/fail notice will be provided to the requesting manager.

- c. **Confidentiality**—All information on the Criminal History Request Form and information obtained from the criminal history records check are confidential and shall be kept in a locked file until destroyed according to IDPR’s retention schedule. No information obtained from criminal history records will be given or sold to any third party.
 - d. **Frequency of Checks** –All new hires and volunteers will have a criminal history check at the time of job offer. Employment will be contingent on the successful completion of the criminal history check. Returning seasonal employees and volunteers will have a criminal history check every two years if serving sequentially in those two years without a break in service. Volunteer and seasonal employees who have a break in service of a year or more will be required to have a criminal history check annually.
3. **Criteria for Pass/Fail Determination**—The following criteria will be used to determine if a subject individual may hold a position with IDPR:
- a. A subject individual who does not consent to a criminal history records check, or fails to provide criminal history information if requested shall immediately be disqualified.
 - b. A subject individual who makes false statements regarding their criminal history, or fails to disclose criminal history and fails to correct the error, may be disqualified.
 - c. Conviction of a crime shall be evaluated based on the following:
 - 1. The nature of the crime.
 - 2. The relevancy of the criminal conviction history to the specific requirements of the position.
 - 3. Intervening circumstances such as:
 - ❖ Passage of time since the commission of the crime.
 - ❖ The age of the subject individual at the time the crime was committed.
 - ❖ The likelihood of a repetition of offenses reflective of the record.
 - ❖ The commission of other relevant crimes.
 - ❖ The recommendation of a current or recent employer.
4. **Probationary Basis** – For the purpose of this policy only the subject individual may begin work on a probationary basis upon a preliminary determination of the subject individual’s fitness if the subject individual is actively supervised.

PROCEDURES:

1. Process for Criminal History Records Checks

- a. **Seasonal Employees** – Managers who intend to offer a position for seasonal employment must direct the subject individual to mail or deliver a completed and signed Criminal History Request Form **AND** an Authority for Release of Information Form to Personnel. The subject individual may fax these forms to the Personnel confidential fax to expedite processing. The original forms must be mailed or delivered to Personnel. The offer of employment is contingent upon an approved criminal history records check. Checks will be completed within two business days after receipt of the information from the candidate unless the initial information indicates need for additional investigation. The requesting

manager will be notified of the results and if there will be a delay in the final pass/fail determination.

- b. **Volunteers** – Managers who intend to offer a volunteer a position must direct the volunteer to mail or deliver a completed and signed Criminal History Request Form to the Volunteer Services Office. To expedite processing the form may be faxed to Volunteer Services using Personnel confidential fax. The offer is contingent upon an approved criminal history records check.
2. **Notification**—A subject individual who fails a criminal history records check and is disqualified from being offered a position with IDPR shall be notified by certified mail by Personnel or Volunteer Services that they did not pass the history check. The notice shall contain information on the rights of the subject individual to challenge the criminal history information. IDPR relies on the information from the background check for its decision until officially notified that the information has been changed or corrected.
 3. **Challenging a Fitness Determination**—A subject individual who does not pass the criminal history records check is entitled to challenge the accuracy and completeness of any information.
 - a. IDPR has no jurisdiction over allegations that the criminal history information received from *Lexis Nexis Volunteer Screening* is inaccurate, incomplete, or maintained in violation of any federal or state law.
 - b. LexisNexis agrees to disclose, upon request from the subject individual, the information reported, reinvestigate any information disputed by the subject individual at no charge to IDPR and take any necessary corrective action with the subject individual and IDPR.
 4. **Disclosure**—Subject individuals must accurately and completely disclose **all** arrest history and conviction history using the Criminal History Request Form. This includes all felonies, misdemeanors, probation violations and failures to appear. Failure to list something may cause disqualification. Serious traffic offenses such as “Reckless Driving,” “Driving Under the Influence of Intoxicants” (DUII) and “Driving While Suspended” (DWS) **must** be listed. “Failure to Appear,” even if for a minor traffic violation is a crime and **must** be listed.

Applicants need not disclose expunged convictions. If an applicant believes a criminal history **should** have been expunged or removed from their record, but they do not **know** that it was expunged or removed, it should be listed. Any criminal records that have been expunged by court order will not be considered or counted against applicant even if disclosed by applicant.

Arrests. Depending upon circumstances, arrests alone may not result in disqualification. However, providing false or incomplete information regarding past arrests, including failure to list requested arrest history, may cause disqualification.

Violations. Minor traffic violations, such as parking tickets, speeding, failing to stop at a stop sign or red light, are not required to be listed.

Failure to disclose. Failure to list any required information on the Criminal History Request Form may cause disqualification.

Automatic disqualification. Failure to comply with this process will cause disqualification. False information about identity will cause disqualification.

5. Recommended Criteria for Exclusion

A person may be disqualified and prohibited from serving as a volunteer or seasonal employee if the person has been found guilty of the following crimes:

Guilty means that a person was found guilty following a trial, entered a guilty plea, entered a no contest plea accompanied by a court finding of guilty, regardless of whether there was an adjudication of guilt (conviction) or a withholding of guilt. This recommendation does not apply if criminal charges resulted in acquittal, *Nolle Prosequi* (Latin for "we shall no longer prosecute," which is a declaration made to the judge by a prosecutor in a criminal case (or by a plaintiff in a civil lawsuit) either before or during trial, meaning the case against the defendant is being dropped. The statement is an admission that the charges cannot be proved, that evidence has demonstrated either innocence or a fatal flaw in the prosecution's claim, or the district attorney has become convinced the accused is innocent, or dismissal.)

Sex Offenses.

- a. All Sex Offenses – Regardless of the amount of time since offense.
Examples include: child molestation, rape, sexual assault, sexual battery, sodomy, prostitution, solicitation, indecent exposure, etc.

Misdemeanors. A misdemeanor conviction of any federal, state, or local crime may be grounds for rejection of the applicant.

- a. An applicant shall be rejected who has been convicted of any misdemeanor sex crime, crime of deceit, or drug offense unless the conviction occurred more than five (5) years prior to application.

Felonies.

- a. All Felony Violence – Regardless of the amount of time since offense.
Examples include: murder, manslaughter, aggravated assault, kidnapping, robbery, aggravated Burglary, etc.
- b. All Felony offenses other than violence or sex within the past 10 years.
Examples include: drug offenses, theft, embezzlement, fraud, child endangerment, etc.

Military Record. A “dismissal,” “bad conduct discharge” (BCD), “dishonorable discharge” (DD), or administrative discharge of other than honorable (OTH) from the military service will disqualify the applicant.